

IN THE SENATE

SENATE BILL NO. 1304

BY EDUCATION COMMITTEE

AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5209, IDAHO CODE, TO PROVIDE THAT IF THE AUTHORIZED CHARTERING ENTITY HAS REASON TO BELIEVE THAT A PUBLIC CHARTER SCHOOL HAS MADE OR CAUSED TO BE MADE ANY FALSE, FRAUDULENT OR FORGED STATEMENT OR REPRESENTATION IN PROCURING OR ATTEMPTING TO PROCURE A CHARTER, THE AUTHORIZED CHARTERING ENTITY SHALL PROVIDE SUCH PUBLIC CHARTER SCHOOL WRITTEN NOTICE OF SUCH DEFECT AND PROVIDE A REASONABLE OPPORTUNITY TO CURE SUCH DEFECT.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 33-5209, Idaho Code, be, and the same is hereby amended to read as follows:

33-5209. ENFORCEMENT -- REVOCATION -- APPEAL. (1) An authorized chartering entity shall ensure that all public charter schools for which it approved petitions, or for which it has responsibility, operate in accordance with the approved charter. A public charter school or the authorized chartering entity may enter into negotiations to revise its charter at any time. A public charter school may petition to revise its charter at any time. The authorized chartering entity's review of the revised petition shall be limited in scope solely to the proposed revisions. In those instances where a non-virtual public charter school submits a proposed charter revision to the public charter school commission and such revision includes a proposal to increase such public charter school's approved student enrollment cap by ten percent (10%) or more, the commission shall hold a public hearing on such petition. The public charter school commission shall provide the board of the local school district in which the public charter school is physically located, notice in writing of such hearing, no later than thirty (30) days prior to the hearing. The public hearing shall include any oral or written comments that an authorized representative of the school district in which the public charter school is physically located may provide regarding the impact of the proposed charter revision upon the school district. Such public hearing shall also include any oral or written comments that any petitioner may provide regarding the impact of the proposed charter revision upon such school district.

(2) If the authorized chartering entity has reason to believe that the public charter school has done any of the following, it shall provide the public charter school written notice of the defect and provide a reasonable opportunity to cure the defect:

(a) Committed a material violation of any condition, standard or procedure set forth in the approved charter;

(b) Failed to substantially meet any of the student educational standards identified in the approved charter;

1 (c) Failed to meet generally accepted accounting standards of fiscal  
2 management;

3 (d) Failed to demonstrate fiscal soundness. In order to be fiscally  
4 sound, the public charter school must be:

5 (i) Fiscally stable on a short-term basis, that is, able to  
6 service all upcoming obligations; and

7 (ii) Fiscally sustainable as a going concern, that is, able to  
8 reasonably demonstrate its ability to service any debt and meet  
9 its financial obligations for the next fiscal year;

10 (e) Failed to submit required reports to the authorized chartering  
11 entity governing the charter; ~~or~~

12 (f) Made, or caused to be made, any false, fraudulent or forged  
13 statement or representation in procuring or attempting to procure a  
14 charter; or

15 (g) Violated any provision of law.

16 (3) A charter may be revoked by the authorized chartering entity  
17 if the public charter school has failed to cure a defect after receiving  
18 reasonable notice and having had a reasonable opportunity to cure the  
19 defect. Revocation may not occur until the public charter school has been  
20 afforded a public hearing and a reasonable opportunity to cure the defect,  
21 unless the authorized chartering entity reasonably determines that the  
22 continued operation of the public charter school presents an imminent public  
23 safety issue, in which case the charter may be revoked immediately. Public  
24 hearings shall be conducted by the governing authorized chartering entity,  
25 or such other person or persons appointed by the authorized chartering  
26 entity to conduct public hearings and receive evidence as a contested case  
27 in accordance with section 67-5242, Idaho Code. Reasonable notice and  
28 opportunity to reply shall include, at a minimum, written notice setting out  
29 the basis for consideration of revocation, a period of not less than thirty  
30 (30) days within which the public charter school can reply in writing, and a  
31 public hearing within thirty (30) days of the receipt of the written reply.

32 (4) A decision to revoke a charter or to deny a revision of a charter  
33 may be appealed directly to the state board of education. With respect  
34 to such appeal, the state board of education shall substantially follow  
35 the procedure as provided in section 33-5207(5)(b), Idaho Code. In the  
36 event the state board of education reverses a decision of revocation, the  
37 public charter school subject to such action shall then be placed under the  
38 chartering authority of the commission.